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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,919	01/30/2001	Albert P. Maggiore	FSHR-008/00US	9069

22903 7590 07/18/2002

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EXAMINER

CEGIELNIK, URSZULA M

ART UNIT PAPER NUMBER

3712

DATE MAILED: 07/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/771,919

Applicant(s)

KARASAWA ET AL.

Examiner

Urszula M Cegielnik

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, in lines 3-4, recites "said drive including a drive shaft, a disk mounted on the drive shaft". The disk, as described in the disclosure, is not mounted on the drive shaft. Therefore, it is not clear what structure the Applicant is intending to claim. Claim 17 recites similar language.

Claim 14 recites, in line 2, "moving a first facial element in two substantially perpendicular directions". It is not clear by the recitation at what point or from what element relative to the first facial element constitutes two perpendicular directions.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by
May et al.

May et al. disclose, as best understood by the claim language, a first facial element (see attached sheet); and a drive operably coupled to the facial element (see attached sheet), the drive including a drive shaft (see attached sheet), a disk mounted on the drive shaft (see attached sheet), and an arm member engaged with the disk and operably coupled to the facial element (see attached sheet), rotation of the drive shaft rotating the disk, which in turn moves the arm member (see attached sheet), which imparts movement in two substantially perpendicular directions to the first facial elements as recited in claim 1; the first facial element is an eyeball body (see attached sheet) as recited in claim 2; the arm member includes a pin (see attached sheet), the disk includes a groove formed therein (see attached sheet), and the pin engages the groove (see attached sheet) as required by claim 3, and a frame supporting the drive (see attached sheet); and a spring coupled to the frame and the arm member to bias the pin into engagement with the groove (see attached sheet) as required by claim 5.

Claims 14-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent No. JP402065887, hereinafter JP '887.

JP '887 discloses a method of producing multiple expressions in a toy (see attached sheet) comprising moving a first facial element (see attached sheet) and moving a second facial element substantially simultaneously with the moving said first facial element (see attached sheet) as recited in claim 14; moving the first facial element to a first position; moving the second facial element to a second position, the first and second facial elements producing a

first expression when in said first and second positions, respectively (see attached sheet) as recited in claim 15; moving said first facial element to a third position; and moving said second facial element to a fourth position, said first and second facial elements producing a second expression when in said third and fourth positions, respectively, said second expression being different from said first expression (see attached sheet) as required by claim 16; the moving a first facial element includes moving the first facial element with a drive including a drive shaft and a disk mounted to said drive shaft, and said moving said first facial element to a first position and said moving said second facial element to a second position include rotating the disk to a first rotational position (the motor is capable of rotating the disk to a first rotational position) as recited in claim 17; said moving said facial element to a third position and said moving said second facial element to a fourth position include rotating the disk to a second rotational position, the second rotational position being different from the first rotational position (the motor is capable of moving the disk to a second rotation different from the first rotational position) as recited in claim 18; determining whether the disk is in the second rotational position (the second rotational position of the disk can be determined by the output of the motor and what facial element is moved) as claimed in claim 19; detecting the rotational position of the disk; and comparing said detected rotational position of the disk with the desired rotational position as (the rotational position of the disk can be detected by the output of the motor and the particular facial element moved, and the detected rotational position of the particular facial element can be compared with the facial element

having the desired rotational position) as required by claim 20; the first facial element is an eyeball body, said second facial element is an eyebrow body, and said moving a first facial element and said moving a second facial element are coordinated to produce at least two of the expressions of anger and inquisitiveness (see attached sheet) as recited in claim 21; said moving a first facial element includes moving the first facial element in an upward and downward motion (62); and moving said first facial element in a side to side motion (61) as recited in claim 22; a supporting member (72) pivotally supporting two eyeball bodies (61) for rotation about two perpendicular axes; a connecting member (75) connecting the two eyeball bodies (61), said connecting member (75) connecting said eyeball bodies (61) so that said eyeball bodies (61) can pivot simultaneously; and a drive (a) connected to the connecting member as recited in claim 23, and coupling shafts (83) supported by the supporting member (72), the coupling shafts (83) operably coupled to the drive (a) and mounted for rotation relative to the drive (a); and eyebrow bodies (62) coupled to each of said coupling shafts and rotated upon the rotation of the coupling shafts as claimed in claim 24, and the eyeball bodies (61) and the eyebrow bodies (62) move simultaneously as required by claim 25.

Allowable Subject Matter

Claims 4 and 6-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


Conclusion

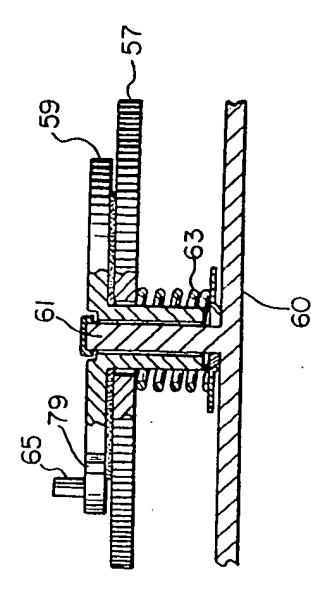
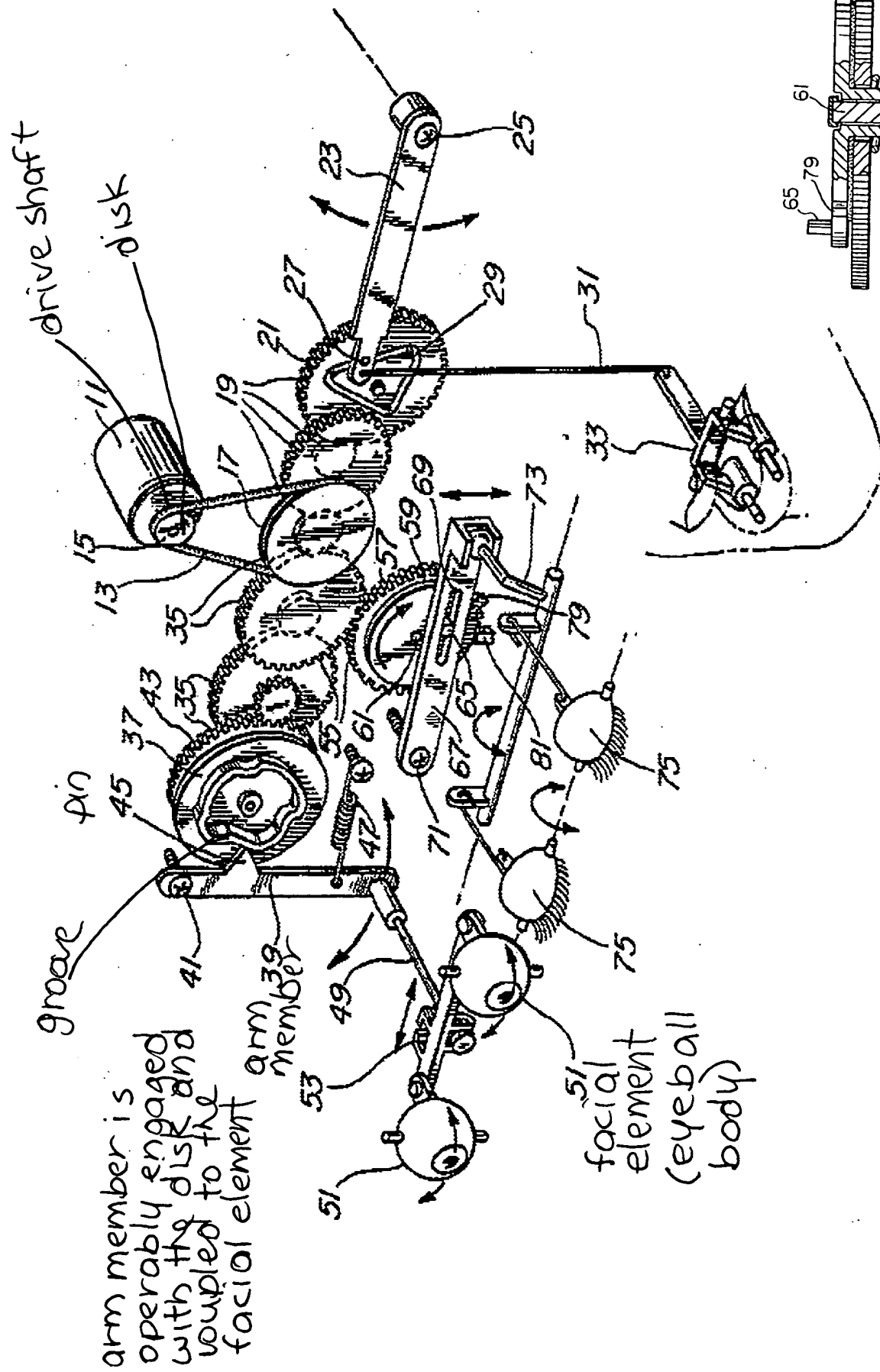
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 703-306-5806. The examiner can normally be reached on Monday through Friday, from 6:45AM - 3:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 703-308-1745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at 703-306-5648.

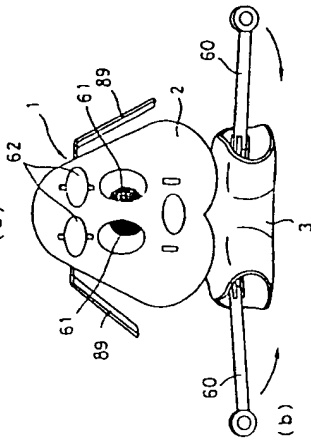
Urszula M. Cegielnik
Assistant Examiner
Art Unit 3712


DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

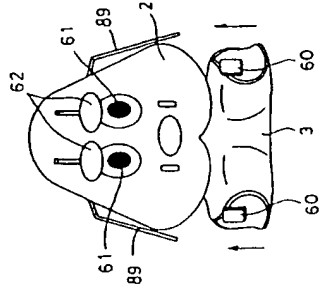


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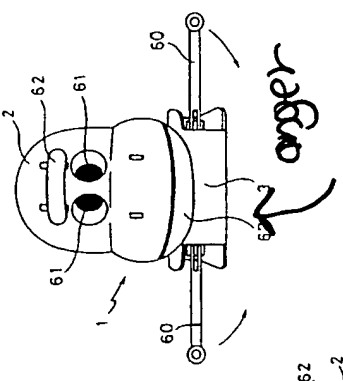
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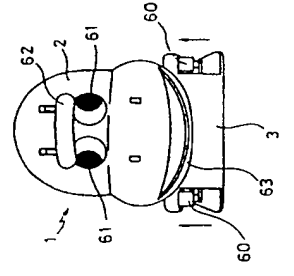
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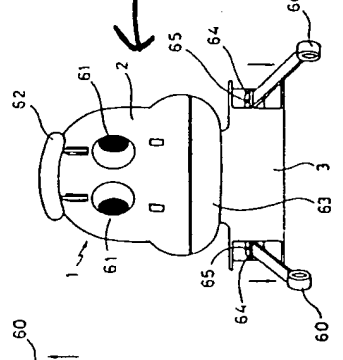
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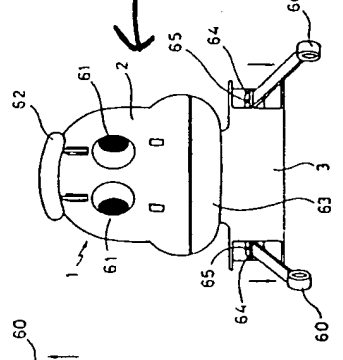
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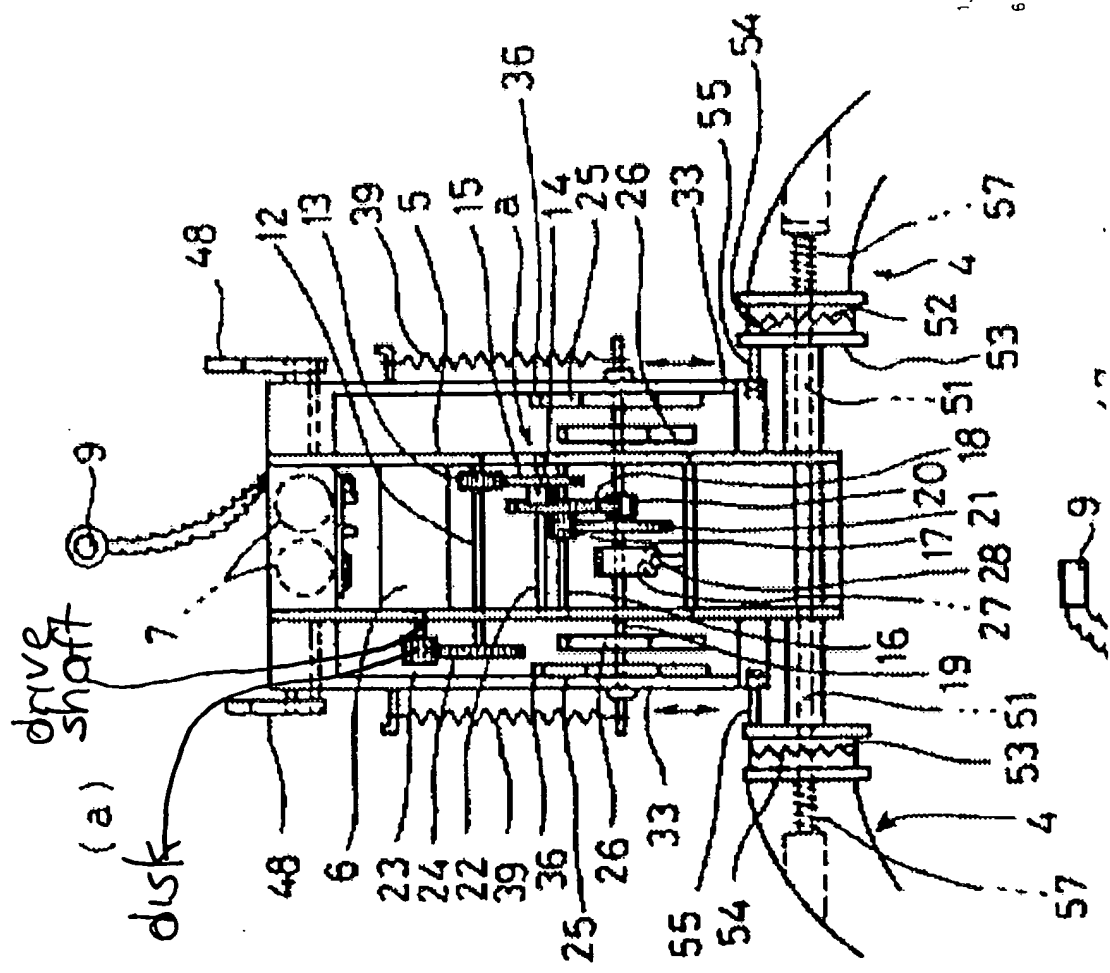
(c)



moving a
first facial
element and
moving second
facial element
to produce
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inquisitiveness

order



(a)

disk

drive shaft

